

Representative Lynn N. Hemingway proposes the following substitute bill:

REPRODUCTIVE HEALTH EDUCATION

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lynn N. Hemingway

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to health courses taught in public schools.

Highlighted Provisions:

This bill:

- directs the State Board of Education to prepare instructional materials related to contraception in compliance with state law and board rules;
- provides that a local school board may adopt instructional materials related to contraception prepared by the State Board of Education;
- provides that if a school district does not use instructional materials related to contraception prepared by the State Board of Education, the materials shall be available for review and use by parents and legal guardians; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

HB0127801

1st Sub. H.B. 127

Utah Code Sections Affected:

AMENDS:

53A-13-101, as last amended by Laws of Utah 2004, Chapter 196

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **53A-13-101** is amended to read:

53A-13-101. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) (a) The State Board of Education shall establish curriculum requirements under Section 53A-1-402, that include instruction in:

(i) community and personal health;

(ii) physiology;

(iii) personal hygiene; and

(iv) prevention of communicable disease.

(b) (i) That instruction shall stress:

(A) the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; and

(B) personal skills that encourage individual choice of abstinence and fidelity.

(ii) (A) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

(B) Subsection (1)(b)(ii)(A) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

(c) (i) The board shall recommend instructional materials for use in the curricula required under Subsection (1)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

(ii) (A) The board shall prepare instructional materials for state curriculum objectives related to contraception that comply with state law and state board rules.

(B) A school district is not required to use instructional materials developed under Subsection (1)(c)(ii)(A).

~~[(ii)]~~ (iii) A local school board may choose to adopt:

(A) the instructional materials recommended under Subsection (1)(c)(i) or (ii); or

(B) other instructional materials as provided in state board rule.

~~[(iii)]~~ (iv) The state board rule made under Subsection (1)(c)(ii)(B) shall include, at a minimum:

(A) that the materials adopted by a local school board under Subsection (1)(c)(ii)(B) shall be based upon recommendations of the school district's Curriculum Materials Review Committee that comply with state law and state board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:

(I) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(II) the advocacy of homosexuality;

(III) the advocacy or encouragement of the use of contraceptive methods or devices; or

(IV) the advocacy of sexual activity outside of marriage;

(B) that the prohibitions of Subsection (1)(c)(iv)(A)(III) do not preclude a discussion related to curriculum objectives about contraception that complies with state law and state board rules;

~~[(B)]~~ (C) that the adoption of instructional materials shall take place in an open and regular meeting of the local school board for which prior notice is given to parents and guardians of students attending schools in the district and an opportunity for them to express their views and opinions on the materials at the meeting;

~~[(C)]~~ (D) provision for an appeal and review process of the local school board's decision; and

~~[(D)]~~ (E) provision for a report by the local school board to the State Board of Education of the action taken and the materials adopted by the local school board under Subsections (1)(c)~~[(ii)]~~(iii)(B) and (1)(c)~~[(iii)]~~(iv).

(2) (a) Instruction in the courses described in Subsection (1) shall be consistent and systematic in grades eight through 12.

(b) At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

(3) (a) The board shall adopt rules that:

(i) recognize that parents and legal guardians have the primary responsibility for

87 instructing children in sex education;

88 (ii) require a sex education unit of instruction to include opportunities for interaction
89 between a student and the student's parent or legal guardian;

90 [(ii)] (iii) provide that the parental consent requirements of Sections 76-7-322 and
91 76-7-323 are complied with; and

92 [(iii)] (iv) require a student's parent or legal guardian to be notified in advance and have
93 an opportunity to review the information used in the classroom for which parental consent is
94 required under Sections 76-7-322 and 76-7-323.

95 (b) The board shall also provide procedures for disciplinary action for violation of
96 Section 76-7-322 or 76-7-323.

97 (c) If a school district does not use the instructional materials prepared by the State
98 Board of Education related to contraception, the materials must be readily available for review
99 and use by parents and legal guardians, and the school district must inform parents and legal
100 guardians how the materials may be accessed.

101 (4) (a) In keeping with the requirements of Section 53A-13-109, and because school
102 employees and volunteers serve as examples to their students, school employees or volunteers
103 acting in their official capacities may not support or encourage criminal conduct by students,
104 teachers, or volunteers.

105 (b) To ensure the effective performance of school personnel, the limitations described
106 in Subsection (4)(a) also apply to school employees or volunteers acting outside of their official
107 capacities if:

108 (i) they knew or should have known that their action could result in a material and
109 substantial interference or disruption in the normal activities of the school; and

110 (ii) that action does result in a material and substantial interference or disruption in the
111 normal activities of the school.

112 (c) Neither the State Office of Education nor local school districts may provide training
113 of school employees or volunteers that supports or encourages criminal conduct.

114 (d) The State Board of Education shall adopt rules implementing this section.

115 (e) Nothing in this section limits the ability or authority of the State Board of
116 Education and local school boards to enact and enforce rules or take actions that are otherwise
117 lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing

118 unfitness for duty.

119 (5) Except as provided in Section 53A-13-101.1, political, atheistic, sectarian,
120 religious, or denominational doctrine may not be taught in the public schools.

121 (6) (a) Local school boards and their employees shall cooperate and share
122 responsibility in carrying out the purposes of this chapter.

123 (b) Each school district shall provide appropriate inservice training for its teachers,
124 counselors, and school administrators to enable them to understand, protect, and properly
125 instruct students in the values and character traits referred to in this section and Sections
126 53A-13-101.1, 53A-13-101.2, 53A-13-101.3, 53A-13-109, 53A-13-301, and 53A-13-302 and
127 distribute appropriate written materials on the values, character traits, and conduct to each
128 individual receiving the inservice training.

129 (c) The written materials shall also be made available to classified employees, students,
130 and parents and guardians of students.

131 (d) In order to assist school districts in providing the inservice training required under
132 Subsection (6)(b), the State Board of Education shall as appropriate, contract with a qualified
133 individual or entity possessing expertise in the areas referred to in Subsection (6)(b) to develop
134 and disseminate model teacher inservice programs which districts may use to train the
135 individuals referred to in Subsection (6)(b) to effectively teach the values and qualities of
136 character referenced in that subsection.

137 (e) In accordance with the provisions of Subsection (4)(c), inservice training may not
138 support or encourage criminal conduct.

139 (7) If any one or more provision, subsection, sentence, clause, phrase, or word of this
140 section, or the application thereof to any person or circumstance, is found to be
141 unconstitutional, the balance of this section shall be given effect without the invalid provision,
142 subsection, sentence, clause, phrase, or word.